

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FRASER ROTCHFORD,

Plaintiff,

v.

STEVEN JEWITT, *et al.*,

Defendants.

CASE NO. C19-0041-JCC

ORDER

This matter comes before the Court on Plaintiff Fraser Rotchford's objections (Dkt. No. 15) to United States Magistrate Judge Michelle L. Peterson's report and recommendation (Dkt. No. 14). Having thoroughly considered the report and recommendation, the objections, and the relevant record, the Court finds oral argument unnecessary and hereby **OVERRULES** Plaintiff's objections and **ADOPTS** Judge Peterson's report and recommendation for the reasons stated herein.

I. BACKGROUND

Plaintiff is incarcerated at Clallam County Jail in Port Angeles, Washington. (Dkt. No. 11.) Plaintiff, proceeding *pro se* and *in forma pauperis*, filed a proposed civil rights complaint pursuant to 42 U.S.C. § 1983. (Dkt. No. 4-1.) In his complaint, Plaintiff alleges that during a prior confinement at the Monroe Correctional Complex, he was administered anti-psychotic treatment by a panel of medical staff against his wishes and despite his suffering from unpleasant

1 side effects, including what Plaintiff refers to as “homicidality.” (*Id.*) Plaintiff names the
2 following Defendants in his proposed complaint: Dr. Steven Jewitt, Dr. Mira Narkiewicz, Dr.
3 Marlinda Praden, Officer Chrissy, Ms. Kennedy, Ms. Doyle, an unknown “male psychologist
4 with red hair and blue eyes,” and the “chair of and all others present at hearing” held on
5 December 18, 2018 at 10:00 p.m. (*Id.* at 1.)

6 On January 30, 2019, U.S. Magistrate Judge James P. Donohue declined to serve
7 Plaintiff’s proposed complaint because it did not allege clear and specific facts that demonstrated
8 how each named Defendant caused Plaintiff harm of a federal constitutional dimension. (Dkt.
9 No. 7.) Judge Donohue granted Plaintiff leave to amend his complaint within 30 days. (*Id.*) On
10 February 15, 2019, Plaintiff filed an addendum to his complaint. (Dkt. No. 8.) Judge Donohue
11 struck the addendum, finding it was insufficient to serve as an amended complaint, and granted
12 Plaintiff an additional 30 days to file an amended complaint. (Dkt. No. 9.) On March 1, 2019, the
13 case was reassigned from Judge Donohue to Judge Peterson. (Dkt. No. 10.)

14 Plaintiff subsequently requested an extension of time to file an amended complaint and
15 alerted Judge Peterson of his transfer from Jefferson County Jail to Clallam County Jail. (Dkt.
16 No. 11.) Judge Peterson granted the motion and ordered Plaintiff to file an amended complaint
17 no later than April 29, 2019. (Dkt. No. 12.) Plaintiff did not file an amended complaint.
18 Accordingly, on May 9, 2019, Judge Peterson issued a report and recommendation
19 recommending that the Plaintiff’s claims be dismissed without prejudice for failure to prosecute.
20 (Dkt. No. 14.) Plaintiff filed objections to the report and recommendation on May 30, 2019.
21 (Dkt. No. 15.)

22 **II. DISCUSSION**

23 “A party must file and serve any objections to a magistrate judge’s recommended
24 disposition within 14 days after being served unless the court enlarges the time period in a
25 specific case.” W.D. Wash. Local Civ. R. 72(b). If a party files objections, the district court
26 “shall make a de novo determination of those portions of the report . . . or recommendations to

1 which objection is made.” 28 U.S.C. § 636(b)(1)(C). Furthermore, the district court judge “may
2 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
3 magistrate judge.” *Id.*

4 The Court has reviewed *de novo* Judge Peterson’s report and recommendation, Plaintiff’s
5 objections, and the relevant record. For the reasons stated on the record (Dkt. Nos. 7, 9), the
6 Court finds that Plaintiff has failed to state a claim upon which relief can be granted.
7 Furthermore, Plaintiff’s objections are unresponsive to Judge Peterson’s report and
8 recommendation. (*See* Dkt. Nos. 14, 15.) Plaintiff elaborates on the alleged harm he suffered, but
9 does not address Judge Peterson’s conclusion that he failed to prosecute his claim. Judge
10 Peterson ordered Plaintiff to file an amended complaint and he failed to do so. Plaintiff’s
11 objections do not amount to an amended complaint or explain why he has not filed an amended
12 complaint. Therefore, dismissal for failure to prosecute is appropriate. *See* Fed. R. Civ. P.
13 41(a)(2).

14 **III. CONCLUSION**

15 For the foregoing reasons, the Court **OVERRULES** Plaintiff’s objections (Dkt. No. 15)
16 and **ADOPTS** Judge Peterson’s report and recommendation. (Dkt. No. 14.) Plaintiff’s claims are
17 **DISMISSED** without prejudice. The Clerk is **DIRECTED** to send copies of this order to Plaintiff
18 and to Judge Peterson.

19 DATED this 18th day of June 2019.

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23 John C. Coughenour
24 UNITED STATES DISTRICT JUDGE
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